

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9029 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgement?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

HANSABEN M MEHTA

Versus

STATE OF GUJARAT

Appearance:

MR PH PATHAK for Petitioner

MR SP HASURKAR, 1d.Addl.GP for Respondent Nos.1 & 2

No one has appeared on behalf of respondent no.3
despite service.

CORAM : MR.JUSTICE M.R.CALLA

Date of Order: 07/12/1999

ORAL JUDGMENT

The petitioner herein was posted as Assistant Government Labour Officer at Valia with effect from 21.11.1992. While working as such, she made a representation for her transfer to Ankleshwar in the year 1995. The petitioner's case is that though at that time the vacancy was available at Ankleshwar, the petitioner was not transferred to Ankleshwar, but an order was

passed on 30th January 1999 transferring her from Valia to Bharuch. In this order dated 30th January 1999, her name appears at Sr.no.8 and it is mentioned against her name that, her transfer to Bharuch was on her own request. The petitioner contested this on more than one grounds and submitted that she had never made any request for her transfer to Bharuch and therefore, this mention that it was a transfer on request was wrong and hence she was entitled to claim TA and DA on this transfer from Valia to Bharuch. The case of the respondents is that her objection was accepted and the orders have been passed allowing TA and DA to her for transfer to Bharuch. The petitioner's further case is that now an order has been passed on 2.11.1999 by which she has been transferred from Bharuch to Ankleshwar and in this order her name appears at Sr.no. 6 and against her name, it was also mentioned as, 'at her request'. She has come with a case that she never made any request for her transfer to Ankleshwar after joining at Bharuch in pursuance of the order which was passed in January 1999 to which a reference has been made hereinabove.

2. The Rule and notice as to interim relief was issued by this Court on 23.11.1999 and in response to this, an affidavit-in-reply dated 26th November 1999 was filed under the signature of Shri B.S.Narve, Deputy Rural Labour Commissioner, in which a stand was taken by the respondent no.2 that even after joining at Bharuch, the petitioner had requested for her transfer to Ankleshwar. In para 4 of this affidavit-in-reply, it was stated by the Deputy Rural Labour Commissioner Shri Narve that the petitioner had made repeated oral requests before the Rural Labour Commissioner on his every visit to Bharuch that inspite of her request to transfer her to Ankleshwar, she had been transferred to Bharuch and therefore, in the subsequent order dated 2nd November 1999, it was mentioned that her transfer from Bharuch to Ankleshwar was on her request. Learned Addl. Govt. Pleader was asked to file a specific affidavit of the concerned Rural Labour Commissioner before whom she has alleged to have raised the grievance that why she had been transferred to Bharuch instead of Ankleshwar whereas her request as had been made in the year 1995 was for Ankleshwar.

3. Now, an affidavit-in-reply has been filed by the Rural Labour Commissioner, Shri Mookesh R. Megha. In para 2 of his affidavit-in-reply, he has categorically stated that he visited Bharuch on 3rd April 1999 and 4th April 1999, i.e. after the petitioner's joining at Bharuch. He has stated that the petitioner met him

personally and made a grievance that she wanted Ankleshwar instead of Bharuch and therefore, she also claimed TA and DA because the transfer was not according to her request. In para 3, it has been again stated that he visited Bharuch on 6th August and 8th August 1999 and during this visit also, the petitioner had reiterated her grievance before him. Again on 1.9.1999, he visited Bharuch and in that visit also, the petitioner met him personally and reiterated her grievance. It has been further stated that during this last visit, the decision was taken to accommodate her at Ankleshwar as soon as possible and when Shri H.C.Patel who had completed three years at Ankleshwar station requested for his transfer, it became easy for the respondents to accommodate her at Ankleshwar and accordingly her choice was accepted and in this background, the order dated 2nd November 1999 was passed transferring the petitioner from Bharuch to Ankleshwar showing it to be on her request. These averments made by the Rural Labour Commissioner, Shri Mookesh Megha in his affidavit dated 4th December 1999 have been sought to be controverted by the petitioner by filing a rejoinder dated 7th December 1999. The learned Counsel for the petitioner also submitted that she could not have requested now for transfer to Ankleshwar as her son is now studying in convent at Bharuch. Thus, it becomes a disputed question of fact as to whether the petitioner had made the request or not. According to her, she did not make any request for her transfer from Bharuch to Ankleshwar and according to the respondents, she has requested more than once claiming Ankleshwar. It is not possible for this Court to embark upon an inquiry on this disputed question as to whether she made any request for her transfer to Ankleshwar after joining at Bharuch or not. Even otherwise, it is a transfer order posting the petitioner who is an Assistant Government Labour Officer, from Bharuch to Ankleshwar which is hardly at a distance of 15-16 kms. from Bharuch and in such matters of transfer and posting, this Court is not supposed to interfere for trifles. I do not find any justification to interfere with the impugned transfer order. This Special Civil Application is hereby dismissed. Rule is discharged. No order as to costs.

Sreeram.